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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,006	10/30/2003	Patrick Gwen	976,037	7413
7590 02/09/2005 John S. Egbert Harrison & Egbert 7th Floor 412 Main Street Houston, TX 77002			EXAMINER WILLATT, STEPHANIE L	
			ART UNIT	PAPER NUMBER
			3732	
DATE MAILED: 02/09/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/698,006

Applicant(s)

GWEN, PATRICK

Examiner

Stephanie L. Willatt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18 is/are allowed.
- 6) ☒ Claim(s) 1-4,9 and 13 is/are rejected.
- 7) ☒ Claim(s) 5-8,10-12 and 14-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 22 March 2004.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 14-17 are objected to because of the following informalities: in line 6, "said slots" should be --said slot--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 9, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zambito (3,927,686) in view of Page (5,056,540).

In Figure 18-21, Zambito discloses a flosser apparatus comprising a handle (100) having a first end and a second end. The handle (100) has a first slot (106) and a second slot (108) formed into the surface adjacent the first end. The slots are transverse from one another, as shown in Figures 19 and 21 and explained in column 6, lines 32-46. The first slot (106) extends longitudinally along the handle (100). The second slot (108) extends transversely to the handle (100). The first slot (106) has a curved portion at a side opposite the first end and is open at the first end, as shown in Figures 18, 19, and 21. The handle (100) has a first side and a second side. The

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second slot (108) has ends that are open at the first side and the second side of the handle (100). The flosser element (head 102) has a generally U-shaped body with a first arm and a second arm and a strut extending therebetween, as shown in Figure 20. A length of floss is fixedly secured to the first arm and the second arm, as shown in Figure 20. One arm has a curved outer surface extending to one end of the strut and the other arm has a curved outer surface extending to the opposite end of the strut, as shown in Figure 20.

Zambito does not disclose a locking member. Page discloses a flosser apparatus with a locking member including a detent (30) that interfits in notch (28). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the flosser apparatus of Zambito with a locking member (detent and notch), as taught by Page, in order to prevent the strut from slipping out of one of the open sides of the slots when the strut is placed in a slot.

#### ***Allowable Subject Matter***

4. Claims 14-17 would be allowable if rewritten or amended to overcome the objections set forth in this Office action.

5. Claims 5-8 and 10-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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6. Claim 18 is allowed.

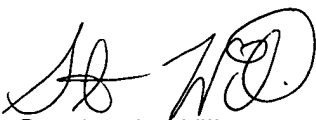
***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Zambito ('857), Jones et al., Eisen, Precuitti, Mochel, Ochs et al., and Bennett et al. disclose flossers that are attachable to a handle.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie L. Willatt whose telephone number is (571) 272-4721. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Stephanie Willatt', is positioned above the printed name.

Stephanie Willatt  
Patent Examiner  
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